



# Flathead County

## Planning & Zoning

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## MEMO

To: Flathead County Board of Commissioners

From: BJ Grieve, Planning Director

Date: August 05, 2013

RE: FBLRTA-13-01: Adoption of the Flathead County Buildings for Lease or Rent (BLR) Regulations.

On May 01, 2013 Governor Steve Bullock signed Senate Bill 324 into law. This bill provided new laws for the regulation of buildings created for lease or rent, and authorized local government to review the creation of buildings for lease or rent. Soon afterwards, the Montana Department of Commerce Community Technical Assistance Program (CTAP) began preparing a set of template or “model” Buildings for Lease or Rent (BLR) regulations. These regulations are not a part of any existing regulations and are in fact a new set of stand-alone regulations that must be adopted by September 01, 2013. In May and June of 2013, CTAP held a series of training workshops for local jurisdictions at which they introduced a model set of BLR regulations and took feedback from local administrators. Based on the input that CTAP received, a revised and updated model was released in July of 2013.

BLR regulations only apply to unzoned areas (zoned areas are exempt from review). Since rural Flathead County has many areas that are unzoned it is important to adopt BLR regulations prior to September 1, 2013 to avoid scenarios where development must be reviewed under the new BLR laws but we lack local regulations.

Soon after the local Kalispell CTAP training workshop was held on May 21, 2013 our office began overseeing the process of adoption of the Flathead County Buildings for Lease or Rent (BLR) Regulations. The minimum process of adoption, outlined in statute, has been followed as well as additional outreach and education. Some of the highlights of the process to this point have been:

- May 29, 2013: Informed Commission of need to adopt BLR regulations. Commission request joint workshop with Planning Board to discuss regulations.
- June 07, 2013: CTAP model regulations forwarded to Planning Board and Commission.
- June 12, 2013: Notice posted for June 26, 2013 joint Planning Board/Commission workshop.
- June 12, 2013: Email sent to “Planning News” email list describing BLR regulations and providing SB324 and CTAP model.
- June 26, 2013: Joint Planning Board/Commission workshop. Group discusses desire to see a local revision to the model show with two primary changes. One is for a more robust grandfathering provision, and two is to change the applicable number of units to which the regulations apply from 4 or more to 6 or more for those served by water and sewer and 31 or more for those not served by water or sewer.

- July 09, 2013: Revised, update model of BLR regulations released by CTAP.
- July 10, 2013: Follow up discussion with Planning Board of draft local revisions to CTAP model.
- July 12, 2013: Draft Flathead County Buildings for Lease or Rent (BLR) Regulations posted to office website and given to Office of Clerk and Recorder (version showing changes to model and “clean” version). Notice of public hearing posted in 6 public buildings.
- July 15, 2013: Notice of public hearing posted in 1 additional building (Road Dept.)
- July 16, 2013: Notice of public hearing posted in 1 additional building (Agency on Aging).
- July 24, 2013: Commission authorizes publication of notice of public hearing.
- July 28, 2013: First legal notice of public hearing appears in Daily Interlake.
- August 04, 2013: Second legal notice of public hearing appears in Daily Interlake.

Based on the CTAP model BLR regulations, as well as input from the Planning Board and Commission at the June 26, 2013 joint workshop, our office prepared a draft version of the Flathead County Buildings for Lease or Rent (BLR) Regulations. For your convenience, I have attached the following documents:

1. Senate Bill 324
2. CTAP model BLR regulations (most recent revision).
3. CTAP model BLR regulations (showing proposed Flathead County changes).
4. Draft Flathead County Buildings for Lease or Rent (BLR) regulations (as it will appear if approved).

In the document listed as #3 above, you will see local changes that were made to the revised CTAP model. The CTAP model has been through extensive review and has been created and revised in conformance with the requirements of Senate Bill 324. However, you will note in Section 5(C) and (D) of the draft regulations that Flathead County is proposing to exempt all buildings for lease or rent that were in existence or under construction prior to September 01, 2013. The reason for this local change is that Flathead County has not required the rent or lease of airspace within structures to be reviewed for subdivision by rent or lease. Requiring a retro-active review of development projects that proceeded in good faith in conformance with Flathead County policy at the time of development would be unreasonable. The change to exempt all buildings for lease or rent that were in existence or under construction prior to September 01, 2013 is allowable under Section 5(1) of SB 324 that states a governing body may elect to increase the minimum number subject to review, and that it may limit the increase to specific types. In this section of the proposed local regulations, Flathead County is electing to increase the minimum number subject to review to unlimited for the specific type or use of “those in existence prior to September 01, 2013.”

Similarly, another local change to the CTAP model can be found in Section 5(E) of the draft regulations. Flathead County is electing to increase the minimum number of buildings for lease or rent subject to review to thirty one for those not served by water or sewer and 6 for those served by water or sewer. Again, this is allowable per Section 5(1) of SB 324. All other changes to the CTAP model are clerical changes to insert proper terminology and titles.

A public hearing for consideration of the Flathead County Buildings for Lease or Rent (BLR) Regulations has been scheduled for August 15<sup>th</sup>, 2013 at 9:30 a.m. After the close of this public hearing, a future agenda item will be scheduled within approximately 1 week to consider and discuss public comment and make a decision on adoption of the proposed regulations.